

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

UNITED STATES OF AMERICA,)
Plaintiff,) Case No.: 5:07-cr-00008-RLV-CH-3
v.) (United States Court of Appeals for the
TIMMY LEE MCALPIN,) Fourth Circuit No.: 08-5143)
Defendant.)

MOTION FOR SPECIAL ADMISSION
TO FILE MOTION FOR EXTENSION OF TIME
UNDER FEDERAL RULE OF APPELLATE PROCEDURE 4(b)(4)

On May 11, 2009, the United States Court of Appeals for the Fourth Circuit remanded the record in the instant case for this Court “to determine whether [defendant Timmy Lee] McAlpin has shown excusable neglect or good cause warranting an extension of the ten-day . . . period” for filing a notice of appeal as authorized by Federal Rule of Appellate Procedure (“FRAP”) 4(b)(4). *United States v. McAlpin*, No. 08-5143 (4th Cir. filed May 11, 2009) (unpub.). Undersigned counsel for defendant Timmy Lee McAlpin (“defendant”) hereby respectfully requests special admission to this Court to file a motion for an extension of time within which to file a notice of appeal under FRAP 4(b)(4) pursuant to the remand order issued by the Fourth Circuit.

As grounds for this motion, undersigned counsel states as follows:

(1) Undersigned counsel is a member in good standing of the bar of the District of Columbia, and is admitted to practice in several federal courts, including the U.S. Court of Appeals for the Fourth Circuit.

(2) On February 25, 2009, the Fourth Circuit appointed undersigned counsel to represent defendant pursuant to the Criminal Justice Act (“CJA”), and undersigned counsel currently represents defendant on his appeal before the Fourth Circuit. Prior to this appointment, defendant was represented at trial, in this Court, by CJA appointed counsel Kimberly Yvette Best. *See Appointment of Attorney Kimberly Yvette Best for Timmy Lee McAlpin, United States v. Parsons*, No. 5:07-cr-00008 (W.D.N.C., Mar. 13, 2007) (docket entry 8).

(3) Defendant was convicted of one count of possession with intent to distribute crack cocaine and one count of conspiracy in violation of 21 U.S.C. §§ 841, 846. This Court sentenced defendant on October 9, 2008 and entered and docketed its final judgment on October 17, 2008. On November 13, 2008, 27 days after the entry of final judgment, Ms. Best filed a notice of appeal in this Court on defendant’s behalf. This Court docketed defendant’s notice of appeal and transmitted it to the Court of Appeals on that same day.

(4) On May 11, 2009, the Fourth Circuit issued an order remanding the record to this Court “to determine whether [defendant] has shown excusable neglect or good cause warranting an extension of the ten-day appeal period,” as provided for in FRAP 4(b). The order specified that, after this Court makes that determination, the record, as supplemented, will be returned to the Court of Appeals for further consideration.

(5) Undersigned counsel now seeks special admission to represent defendant in this Court for the limited purpose of filing the lodged motion for an extension of time to file a notice

of appeal under FRAP 4(b) pursuant to the Fourth Circuit's remand order, along with the lodged proposed order granting the extension of time.

WHEREFORE, undersigned counsel respectfully requests that this motion for special admission be granted.

Date: May 20, 2009

Respectfully submitted,

s/ Ketanji Brown Jackson

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Attorney for Defendant Timmy Lee McAlpin

CERTIFICATE OF SERVICE

I certify that on this 20th day of May, 2009, a copy of the foregoing Motion for Special Appearance was served upon the United States, by serving its attorney of record, Assistant United States Attorney Amy E. Ray, through electronic filing.

s/ Ketanji Brown Jackson

Attorney for Defendant Timmy Lee McAlpin